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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC587

Notice of Availability of a Supplemental Draft Environmental Impact Statement for Effects of Oil and Gas Activities in the Arctic Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a Supplemental Draft Environmental Impact Statement; request for comments.

SUMMARY: NMFS announces the availability of the “Supplemental Draft Environmental Impact Statement (Supplemental DEIS) for the Effects of Oil and Gas Activities in the Arctic Ocean.” Publication of this notice begins the official public comment period for this Supplemental DEIS. The purpose of the Supplemental DEIS is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative approaches for authorizing the take of marine mammals incidental to oil and gas exploration activities in the Arctic Ocean pursuant to the Marine Mammal Protection Act (MMPA). The U.S. Department of the Interior’s Bureau of Ocean Energy Management (BOEM) is a cooperating agency on this DEIS, and as such, this DEIS also evaluates the potential direct, indirect, and cumulative impacts of implementing the alternative approaches for authorizing geological and geophysical (G&G) surveys and ancillary activities under the Outer Continental Shelf Lands Act (OCSLA) in the Arctic Ocean. The North Slope Borough (NSB) is also a cooperating agency on this DEIS. The Environmental Protection

Agency is serving as a consulting agency, and NMFS is coordinating with the Alaska Eskimo Whaling Commission pursuant to our co-management agreement under the MMPA.

DATES: Written, telefaxed, or electronic comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: The Supplemental DEIS is available for review online at <http://www.nmfs.noaa.gov/pr/permits/eis/arctic.htm>. You may submit comments on this document, identified by NOAA-NMFS-2013-0054, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, enter NOAA-NMFS-2013-0054 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Comment Now” icon on the right of that line.
- Mail: Office of Protected Resources, 1315 East-West Highway, Room 13115, Silver Spring, MD 20910
- Fax: (301) 713-0376, Attn: Candace Nachman
- Public Hearings: Oral and written comments will be accepted during the upcoming public meetings. See SUPPLEMENTARY INFORMATION, Public Meetings (below) for more information.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying

information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Jolie Harrison, or Michael Payne, Office of Protected Resources, NMFS, at (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of proposed authorization is provided to the public for review. The term “take” under the MMPA means “to harass, hunt, capture or kill, or attempt to harass, hunt, capture, or kill.” Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact

on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

NMFS, as the lead federal agency, prepared this Supplemental DEIS to evaluate a broad range of reasonably foreseeable levels of exploration activities and associated mitigation measures that may occur in the U.S. Beaufort and Chukchi Seas. BOEM and the NSB are serving as formal cooperating agencies; the Environmental Protection Agency (EPA) is serving as a consulting agency; and NMFS is coordinating with the Alaska Eskimo Whaling Commission (AEWC) pursuant to our co-management agreement under the MMPA.

NMFS has published this Supplemental DEIS to disclose the potential impacts associated with their issuance of incidental take authorizations (ITAs) for seismic surveys, ancillary activities, and exploratory drilling under section 101(a)(5) of the MMPA and BOEM’s authorization of G&G permits and ancillary activities under the OCSLA.

#### Process History for this EIS

On February 8, 2010, NMFS, as lead agency, announced its intent to prepare an EIS analyzing the impacts to the human environment from the issuance of MMPA ITAs for the take of marine mammals incidental to oil and gas industry exploration activities in the U.S. Arctic Ocean and BOEM’s proposed action of issuing G&G permits and authorization of ancillary activities in the U.S. Arctic Ocean under the OCSLA (75 FR 6175). The 60-day public scoping period ended on April 9, 2010.

On December 30, 2011, NMFS published a Notice of Availability of the DEIS in the Federal Register (76 FR 82275). The 2011 DEIS includes an analysis of the proposed actions identified in the 2010 NOI (i.e., NMFS' issuance of MMPA ITAs for take of marine mammals incidental to G&G surveys, ancillary activities, and exploratory drilling in the Chukchi and Beaufort Seas and BOEM's issuance of G&G permits and authorizations of ancillary activities in the Chukchi and Beaufort Seas), the anticipated environmental impacts, and other measures to minimize the impacts associated with these activities. The 60-day public comment period closed on February 28, 2012.

In light of comments received on the 2011 DEIS, NMFS and BOEM determined that the Final EIS would benefit from the inclusion of an additional alternative for analysis that covers a broader range of potential levels of exploratory drilling scenarios in the Beaufort and Chukchi Seas. NMFS published an NOI to prepare a Supplemental DEIS in the Federal Register on January 30, 2013 (78 FR 6303). Additional information about the NOI can be found in that notice.

## Alternatives

The alternatives analyzed in the 2011 DEIS are summarized in the DEIS Notice of Availability (76 FR 82275, December 30, 2011). However, as noted previously NMFS and BOEM concluded that an additional activity level scenario should be considered in the Supplemental DEIS. Consistent with the 2011 DEIS, the alternatives assess a reasonable range of G&G, ancillary, and exploratory drilling activities expected to occur, as well as a reasonable range of mitigation measures, in order to accurately assess the potential consequences of issuing ITAs under the MMPA and permits under the OCSLA. Each alternative includes an analysis of a suite of standard and additional mitigation measures that have been identified to help reduce

impacts to marine mammals and to ensure no unmitigable adverse impact on the availability of marine mammals for subsistence uses.

The primary difference between this Supplemental DEIS and the 2011 DEIS is in the treatment of alternatives. In particular, NMFS and BOEM analyze an additional alternative that considers up to four exploratory drilling programs in the Beaufort Sea and up to four exploratory drilling programs in the Chukchi Sea per year. In the 2011 Draft EIS, the maximum level of exploratory drilling considered in the alternatives was two exploratory drilling programs in the Beaufort Sea and two exploratory drilling programs in the Chukchi Sea per year. Table 1 outlines the activity levels considered in each action alternative. Activity levels noted are a maximum for each alternative.

**Table 1. Levels of G&G, ancillary, and exploratory drilling activities proposed for consideration in the alternatives in the Supplemental DEIS on the Effects of Oil and Gas Activities in the Arctic Ocean. Activity levels noted are a maximum, and any combination up to that amount could be allowed under each alternative.**

	2D/3D Seismic Surveys	Site clearance and Shallow Hazards Surveys	On-ice Seismic Surveys	Exploratory Drilling
<b>Alternative 1 (No Action)</b>	0	0	0	0
<b>Alternative 2 (Level 1)</b>	4 in Beaufort 3 in Chukchi	3 in Beaufort 3 in Chukchi	1 in Beaufort 0 in Chukchi	1 in Beaufort 1 in Chukchi
<b>Alternative 3 (Level 2)</b>	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	2 in Beaufort 2 in Chukchi
<b>Alternative 4 (Level 3)</b>	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	4 in Beaufort 4 in Chukchi
<b>Alternative 5 (Level 3 with required time/area closures)</b>	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	4 in Beaufort 4 in Chukchi
<b>Alternative 6 (any level with required use of alternative technologies)</b>	6 in Beaufort 5 in Chukchi	5 in Beaufort 5 in Chukchi	1 in Beaufort 0 in Chukchi	Any level up to the maximum, as the technology only relates to seismic surveys

Alternatives 5 and 6 differ from Alternatives 2, 3, and 4 in the fact that each one considers required mitigation measures not contemplated in the other action alternatives. Certain

time/area closures considered for mitigation on a case-by-case basis under the other action alternatives would be required under Alternative 5. The time/area closures would be for specific areas important to biological productivity, life history functions for specific species of concern, and subsistence activities. Activities would not be permitted to occur in any of the time/area closures during the specific identified periods. Additionally, buffer zones around these time/area closures could potentially be included.

In addition to contemplating the same suite of standard and additional mitigation measures analyzed in the other action alternatives, Alternative 6 also includes specific additional mitigation measures that focus on the use of alternative technologies that have the potential to augment or replace traditional airgun-based seismic exploration activities in the future.

#### Summary of Sections with Substantive Changes from the 2011 DEIS

The following is a brief overview of the major changes in the Supplemental DEIS from the DEIS released in December 2011. This overview is provided to aid the public in their review of the full document. A more detailed overview can be found online on the project website at: <http://www.nmfs.noaa.gov/pr/permits/eis/arctic.htm>.

#### Alternatives (Chapter 2)

- Section 2.4.7 contains the description of the newly added alternative.
- Sections 2.4.8 and 2.4.9 are the new Alternatives 5 and 6, previously described as Alternatives 4 and 5 in the 2011 DEIS.
- Section 2.4.8.2 contains the updated list of time/area closures contemplated under Alternative 5 and as additional mitigation measures under Alternatives 2, 3, 4, and 6.

#### Baseline Information (Chapter 3)

- Sections 3.2.4 and 3.3.2 contained updated information regarding marine mammals and subsistence resources based on literature and data provided during the public comment period.

#### Mitigation Measure Analysis (Chapter 4)

- Sections 4.5.2.4.15 and 4.5.2.4.16 contain the updated analysis of standard and additional mitigation measures, respectively, with the primary purpose of reducing impacts to marine mammals.

- Sections 4.5.3.2.3 and 4.5.3.2.5 contain the updated analysis of standard and additional mitigation measures, respectively, with the primary purpose of reducing impacts to subsistence uses of marine mammals.

- For each measure, we outlined activities to which it applies (e.g. just seismic surveys or just exploratory drilling or all activities), the purpose of the measure, the science, support for reduction of impacts to marine mammals or subsistence availability of marine mammals, the likelihood of effectiveness, the history of implementation of the measure, practicability for applicant implementation, and recommendation for how, and if, to apply the measure in future MMPA ITAs.

#### Impact Analyses (Chapter 4)

- Table 4.5-19, page 4-91, and Table 4.5-25, page 4-184 contain revised impact criteria for the assessment of potential impacts to marine mammals and subsistence resources to include additional factors that more closely align with analyses conducted under the MMPA.

- Section 4.2.6 is a new section in this Supplemental DEIS. This section includes information regarding the process NMFS has initiated to revise the acoustic criteria, which are currently used by NOAA to determine the received sound level at which injury or behavioral harassment of marine mammals from seismic airguns may occur. The acoustic criteria process



will (separate from this EIS process) include both a public and external peer review process. At this time, we are still in the internal review process for the acoustic criteria, but we have included key basic information about the likely nature of the revisions to the criteria that adds value to the environmental analysis contained in this Supplemental DEIS. We refer the public to the separate acoustic criteria document for comment when it is made available in the coming months. The schedules for finalization of the Final EIS and the acoustic criteria are similar.

#### Public Meetings

Comments will be accepted at public meetings and during the public comment period, and must be submitted to NMFS by the comment deadline (see DATES). We request that you include background documents to support your comments as appropriate.

Public meetings will be held the week of April 8, 2013, in the communities of Barrow and Kotzebue and in Anchorage. Dates, times, and locations of each meeting will be announced in advance in local media. Comments will be accepted at all public meetings, as well as during the public comment period and can be submitted via the methods described earlier in this document (see ADDRESSES).

Dated: March 26, 2013.

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Helen M. Golde,  
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